

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE:) CHAPTER 7
ROSLYN KITTA LAURY,) CASE NO. 06-61198
Debtor.) JUDGE RUSS KENDIG
) **MEMORANDUM OF DECISION**
) **(WRITTEN OPINION)**
)

This matter is before the court on Debtor's Application for Waiver of the Chapter 7 Filing Fee (hereafter "application") filed on July 13, 2006. On July 19, 2006, the court entered an order requesting Debtor file additional documentation to allow the court to fully assess her current financial condition. Debtor filed additional documents on July 31, 2006.

Following passage of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, debtors are permitted to seek a waiver of the bankruptcy filing fee. Pursuant to 28 U.S.C. § 1930(f), a "bankruptcy court may waive the filing fee . . . if the court determines that such individual has less than 150 percent of the income official poverty line . . . applicable to a family of the size involved and is unable to pay that fee in installments." By the terms of the statute, a court's ability to waive the fee is permissive, not mandatory ("may waive"), and waiver must be premised upon a finding that a debtor meets the income and inability to pay in installments criteria.

The court will first determine whether Debtor's income is 150 percent of the poverty level. According to the Department of Health and Human Services 2006 Poverty Level Guidelines, available at <http://aspe.hhs.gov/poverty/06fedreg.htm>, the poverty income for a family of four is \$20,000.00. At 150 percent of poverty, the poverty income is \$30,000.00 annually or \$2,500.00 per month.

Form B22A (the "means test") indicates Debtor's Annualized Current Monthly Income is \$21,115.92 which is based on a monthly gross income of \$1,759.66. The same monthly income is listed on Schedule I. Schedule I indicates that Debtor is not working, but is a full-time student. Her income includes \$859.66 in support payments, \$400.00 in food stamps and \$500.00 in contributions from family or friends. Debtor's 2005 tax return indicates her adjusted gross income in 2005 was \$2,119.00. Clearly, these figures indicate that Debtor is below the 150% poverty threshold and therefore Debtor has satisfied the first prong of the test.

Upon review of Debtor's Schedule J, the court concludes that Debtor is not able to pay the filing fee in installments. Debtor's budget does not contain itemizations for cable or cell phone and contains only \$25.00 as a recreational expense. Each of Debtor's expenses is reasonable, if not low, and yet Debtor still indicates a shortfall of \$190.34 each month. Therefore, Debtor has demonstrated an inability to pay the filing fee in installments and has met the second prong of the analysis.

Having found that Debtor earns less than 150% of poverty and does not have the ability to pay the filing fee in installments, the court hereby **GRANTS** Debtor's application to waive the filing fee.

An order in accordance with this decision shall be issued immediately.

/s/ Russ Kendig
RUSS KENDIG
U.S. BANKRUPTCY JUDGE

AUG 15 2006

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